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ABSTRACT

A rural Sonoma County (California) school district refused to allow Cristofer Barajas, a migrant child, to enter kindergarten because he would be enrolling too late in the school year and would disrupt the instruction of the other children. The case was taken to court and six issues were considered. The court determined that the school district did not find "good cause" to deny Cristofer admission and that a school district cannot interpret the California code to deny kindergarten admission to any child at its sole discretion. It also ruled that a school district cannot adopt a policy of automatic rejection. Whether kindergarten children have a right to education under the California code was determined to be beyond the jurisdiction of the court. Although the implications of the policy were racial in nature, it was not determined that there was a racial element to the school district's policy. Finally, the court found that admitting Cristofer late would not have disrupted the kindergarten class. School administrators need to be tolerant of different groups and cultures, inform them of their rights, and practice inclusionary policies. Migrant parents have more power than they realize when they are dealing with the public school system. An appendix presents the court order. The case prompted changes in the California code. (TD)

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The Sonoma Case of Cristofer Barajas

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The Case of Cristofer Barajas

What little 6-year-old Cristofer Barajas did that day was change the way school districts in California view the rights of powerless migrant workers and their children. The fallout was tremendous in terms of conflict resolution, parental rights and school policy implications. Yet, the story is really a benchmark for educational reform. And there is a message here that persistence pays off in the long run.

In November 1989, the tiny Two Rock Union School District nestled among the dairy farms of Sonoma County, twice refused to allow a migrant child to enter kindergarten because he would be enrolling too late in the school year. Even though he had all his immunization shots, the principal of the school, Colleen Richardson, who also doubled as the district's superintendent, refused to allow the child to enroll. She said it was against school policy to start a child after the school year had begun. She also indicated that allowing Cristofer to enroll would cause a potential disruption to the instruction of the other children.

Jose Barajas, Cristofer's father, sought the advice of Larry Wagner, Butte County Office of Education's Program Coordinator for Migrant Education in Region 2, Area 1, which covered the Sonoma area. Wagner's job is to make aware the educational opportunities for migrant workers and their children in that area. He told Mr. Barajas, that he could advise him on how to get his son, Cristofer, enrolled in the school. He also told Mr. Barajas that any attempt to enroll his son would be met with stiff resistance and that

he would have to be patient as well as persistent when dealing with the school district. In the meantime, little Cristofer would have to sit out the school year until a resolution was found.

At issue here is: Can a school district interpret the California education code to deny kindergarten admission to any child at its sole discretion? Can a school district adopt a policy of "automatic rejection" in its admission policies? Do kindergarten children have a fundamental right to education under the California code? Is there discrimination against farm workers who routinely enroll their children in school after the farming season? Was there a racial element to the school district's policy? And would there truly be a disruption of the 33-member kindergarten class if Cristofer started school in November?

These six issues were decided in the case of little Cristofer. And when Jose Barajas said in his request for help, "...I would like to take this up with a person who knows about laws in order to see if I am correct or not," his case was answered by many who knew the law or how to change it.

First, there was Larry Wagner. He is an expert in migrant education and his motivation for helping the Barajas' was to secure an education for Cristofer. Next, there was the Two Rock School District. They wanted to maintain their policy of rejecting students who apply late to school based on their discretion. Next, there was the attorney for the California Rural Legal Assistance Foundation. He took the case for the Barajas' and argued it in the Superior Court of Sonoma County. His agenda was probably looking out for the rights of migrant workers. Last, there was Assemblyman Xavier Becerra, D-Monterey Park, who after the "Sonoma Case" was decided in 1990, introduced Assembly

Bill 1324 in the California Legislature that changed the education code and allowed children to enter kindergarten past the first month of school. His agenda might simply have been to help other migrant children get an education or it might have been to seek favor among Latino groups in a high profile case in his bid for reelection. Anyway, he is now a congressman.

The California education code and the Two Rock School District policy are the main elements of this case. The school district had what amounts to an unofficial a policy of "automatic rejection" of students at its sole discretion. The implications were that it was discriminatory against migrant children who arrive well after the September start date. And while there was another migrant child who was denied enrollment in the same district in October, one full month before Cristofer's case, was the same "automatic rejection" in force for non-Latino children? That question has never been determined. However, the lasting human implications have a racial overtone.

The other element is the California education code policy. In Part 27, Pupils; Chapter 1 Admission; Article 1 Kindergartens, Section 48000 (a), the old code indicated "A child shall be admitted to a kindergarten in any term during the first school month of the term, …" and "For good cause the governing board of a school district may permit a child of proper age to be admitted to a class after the first month of a school term." The emphasis here is on the phrase "good cause". The superior court found that the school district abused its discretion in failing to evaluate Cristofer on an individual basis and that if it had evaluated Cristofer it would have found "good cause" to allow his admission to kindergarten.

> "Based upon the evidence presented the court finds that the Two Rock Union School District's policy of refusing to enroll a child in kindergarten after the first month of the school term does not meet the requirements of Education Code section 48000. Further, the court finds that the two exceptions to the policy applied by the district (1. to enroll children who have already been enrolled in kindergarten, and, 2. to enroll children who apply a few days after the first month of the school term) are arbitrary and have no rational basis."

The new section 48000 of the education code, as amended by then Assemblyman Becerra, indicates that a child may enter kindergarten, "…at any later time in the same year if the child will have his or her fifth birthday on or before December 2 of that school year." The new law also mentions that school districts must consider a child for school on a "case-by-case basis." So, can a school district interpret the California education code to deny kindergarten admission to any child at its sole discretion? No. Can a school district adopt a policy of "automatic rejection" in its admission policies? No. Do kindergarten children have a fundamental right to education under the California code? That question was never answered because it was determined to be beyond the jurisdiction of the superior court. Is there discrimination against farm workers who routinely enroll their children in school after the farming season and was there a racial element to the school district's policy? As we said earlier, the implications are racial in nature. And would there

truly be a disruption of the 33-member kindergarten class if Cristofer started school in November? No.

As an administrator, it is important to know your community, especially the neighborhoods from where your students come from. If Colleen Richardson had been in touch with her community perhaps this event would never have occurred. We, as administrators can get to know the people we service. We can get to know the other agencies that service our students. If that means talking to the United Farm Workers or the California Rural Legal Assistance Foundation then so be it. We should all be aware of the various programs that help the people in our school district. The local county office of education can be a good start.

Solutions to these problems are as easy as being tolerant of different groups and cultures. Trying to accommodate all the students' needs is the proper attitude. After all, the student needs an education, and that is why we are there. Not all migrant families will be as persistent as the Barajas. Most will not understand their rights. As an administrator we have to understand their rights and inform them of their rights.

As for the educational rights of migrant workers such as the Barajas', "They have parental rights and parents do have more power than they realize when they are dealing with the public school system," said Wagner, "But they will never know the answer to their questions until they ask the question."

There was a ripple effect that pervaded the migrant community, Wagner said. "A lot of migrant families heard about this."

The lesson here is that as administrators, we have to be aware of the civil rights of children and their families. We need to practice inclusionary policies instead of exclusionary policies.

References

1. Larry Wagner, personal communication, April 7, 2000

2. Jose Barajas and Cristofer Barajas v. Board of Trustees, Two Rock Union School District

3. California Education Code Sec. 48000 (1989 – 2000)

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SUPERIOR COURT, COUNTY OF SONOMA, STATE OF CALIFORNIA

JOSE BARAJAS and CRISTOFER BARAJAS, a minor, by his Guardian ad Litem, JOSE BARAJAS, Petitioners, vs. BOARD OF TRUSTEES, TWO ROCK UNION SCHOOL DISTRICT, BRUCE RAVEN, and COLLEEN RICHARDSON, Respondents.	No. 180963 **JUDGMENT**

This matter came on for hearing May 7, 1990 pursuant to the alternative writ of mandate issued April 17, 1990. The matter was fully briefed by all parties and evidence was submitted in the form of declaration and sworn in-court testimony. This court

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having fully considered the evidence and legal argument the court enters judgment in this matter as follows:

The court finds that California Education Code section 48000 creates a mandatory duty on the part of school districts to make a determination as to whether good cause exists to enroll a child in kindergarten after the first month of the school term. This duty requires that the district exercise its discretion when making that determination. The court further finds that such discretion cannot be exercised by application of an arbitrary exception to the general policy not to enroll a child after the first month of the school term; and, that such discretion must be exercised on a case by case basis.

Based upon the evidence presented the court finds that the Two Rock Union School District's policy ~~not~~ of refusing to enroll a child in kindergarten after the first month of the school term does not meet the requirements of Education Code section 48000. Further, the court finds that the two exceptions to the policy applied by the District (1. to enroll children who have already been enrolled in kindergarten, and, 2. to enroll children who apply only a few days after the first month of the school term) are arbitrary and have no rational basis.

With respect to the application for enrollment by petitioner, Cristofer Barajas, the court finds that the respondent failed to exercise its discretion as mandated under Education Code section 48000. The respondents' failure to evaluate Cristofer Barajas on an individual basis was an abuse of discretion. Further, the court finds that the uncontroverted

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evidence in the record establishes that if the District were to evaluate Cristofer Barajas good cause would exist to allow admission and any other decision would be an abuse of discretion.

IT IS THEREFORE ORDERED AND ADJUDGED THAT:

1) A Peremptory Writ of Mandate issue commanding the respondents to abandon the current policy of not allowing enrollment in kindergarten after the first month of the school term and to adopt a policy that requires appropriate determination of good cause for enrollment on a case by case basis; and, that the respondents reverse the decision entered April 10, 1990 and enter a decision providing for the enrollment of Cristofer Barajas into the kindergarten class at Two Rock Elementary School for the remainder of the 1989-90 school year

2) The respondents are enjoined and ordered to immediately enroll Cristofer Barajas to the kindergarten class at the Two Rock Elementary School for the remainder of the school year.

3) Petitioners shall be awarded fees and/or costs as may be allowable pursuant to statute, such fees and/or costs to be pursued by filing of appropriate motion with this court.

Dated: _____

Hon. William L. Bettinelli
Superior Court

Approved as to form

Dated: JUN 7 1990

Robert J. Henry
Attorney for Respondents

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